IN THE HIGH COURT OF BOMBAY AT GOA.

CRIMINAL WRIT PETITION NO.3 OF 2004.

Tsering Sherpa, Central
Jail, Aguada. ... Petitioner.

Versus

State of Goa through
Inspector General of Prisons,
Panaji. ... Respondent.

Mr. S.G. Bhobe, Advocate under Legal Aid Scheme for the Petitioner.

Mrs. W. Coutinho, Additional Public Prosecutor for the Respondent State.

Coram : P.V. HARDAS AND
D.G. KARNIK, JJ.

Date : 15th April 2004.

ORAL JUDGMENT (PER HARDAS, J.)

The petitioner, who is undergoing sentence of 10 years rigorous imprisonment for an offence punishable under the N.D.P.S. Act, has sent a letter to this Court praying therein that the respondent be directed to provide a radio to enable the petitioner to listen to newsbroadcast in Tibetan language. In the letter, which is registered as Criminal Writ Petition, it is also contended that the petitioner knows only Tibetan language and is, thus, deprived of listening to newsbroadcast in Tibetan language. As the petitioner does not understand any other language, he is virtually cut off from the rest of the world in respect of knowing the developments around the world.

2. In this petition Rule was issued on 3rd February 2004. In the affidavit filed on behalf of the respondent, it is stated that the books in Tibetan language are not available in the Jail Library. It is also admitted that newspaper in Tibetan language are not available in the State of Goa and, hence, are not available in the Jail. The affidavit further states that the petitioner had submitted an application in the year 2002/2003 for permission to possess and keep a pocket radio and the said application was rejected, as allowing the petitioner to possess a pocket radio would affect the discipline in the jail. The affidavit annexed certain letters evidencing a situation of break down in the discipline which had arisen previously on account of prisoners being allowed to retain a guitar, etc., in their possession.

3. During the course of hearing of this petition, the learned Additional Public Prosecutor, appearing on behalf of the respondent, has very fairly stated, on instructions, that, in case the petitioner purchases a pocket radio, the respondent shall permit the use of the pocket radio to the petitioner for hearing the newsbroadcast in Tibetan language from 6.00 a.m. till 7.30 a.m.. The learned Additional Public Prosecutor has also stated that at 6.00 a.m. the Jail Authorities shall hand over the pocket radio to the petitioner and

shall, thereafter, at 7.30 a.m., on conclusion of the newsbroadcast, take back the pocket radio. In view of this, according to us, it is not necessary to decide whether depriving the petitioner of using a pocket radio to listen to the newsbroadcast in Tibetan language, which is the only language which he understands, would be violative of Article 21 of the Constitution of India. We accept the statement made on behalf of the respondent by the learned Additional Public Prosecutor and we direct accordingly.

4. In view of the concession of the respondent, the petitioner, if he purchases a pocket radio, shall be allowed the use thereof from 6.00 a.m. to 7.30 a.m. every day. The pocket radio be handed over to the petitioner by the respondent at 6.00 a.m. and the petitioner, thereafter, to hand over the said pocket radio at 7.30 a.m. to the respondent every day. In the event the respondent finds that the petitioner has either mis-used this facility or that the concession of permitting the petitioner to use the pocket radio affects the jail discipline, the respondent would be at liberty, after informing the petitioner, to discontinue the use of the pocket radio by the petitioner.

5. In view of this Criminal Writ Petition is

disposed of with no order as to costs.

(P.V. HARDAS)
JUDGE.

(D.G. KARNIK)
JUDGE.

ed's.